

SENATE BILL 245

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2003 Regular Session
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By: **Senator Mooney**
Introduced and read first time: January 30, 2003
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System - Military Service Credit - Maryland**
3 **National Guard Members**

4 FOR the purpose of authorizing members of the State Retirement and Pension
5 System who are members of the Maryland National Guard and activated under
6 certain sections of the United States Code, to receive a certain amount of service
7 credit under certain circumstances for military service as a member of the
8 Maryland National Guard; providing for a certain limit to the military service
9 credit; and generally relating to military service credit for members of the
10 Maryland National Guard.

11 BY repealing and reenacting, with amendments,
12 Article - State Personnel and Pensions
13 Section 38-103 and 38-104
14 Annotated Code of Maryland
15 (1997 Replacement Volume and 2002 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - State Personnel and Pensions**

19 38-103.

20 (a) This section applies only to a member of a State or local retirement or
21 pension system who:

22 (1) does not withdraw any of the member's accumulated contributions,
23 unless the member redeposits the sum withdrawn as provided under subsection (b) of
24 this section;

25 (2) within 1 year after the member leaves military service, is employed
26 by the State or a political subdivision of the State;

27 (3) does not take any employment other than the employment described
28 in item (2) of this subsection, except for temporary employment after the member:

1 (i) applied for reemployment in the member's former classification
2 or position in the State service; and

3 (ii) was refused immediate reemployment for causes beyond the
4 member's control; and

5 (4) applies for service credit with the State or local retirement or pension
6 system in which the member held membership before the member's military service
7 began.

8 (b) If a member of a State or local retirement or pension system who is absent
9 from employment for military service withdraws any of the member's accumulated
10 contributions and redeposits the sum withdrawn with regular interest into the State
11 or local retirement or pension system, the member, if otherwise qualified, is entitled
12 to the benefits of this section as if the withdrawal had not been made.

13 (c) Except as otherwise provided in this subtitle, a member of a State or local
14 retirement or pension system who is actively reemployed under subsection (a)(2) of
15 this section retains the status and rights as a member during a period of absence from
16 employment for military service.

17 (d) (1) Subject to [paragraph (2)] PARAGRAPH (2)(I) of this subsection, a
18 member of a State or local retirement or pension system shall receive service credit
19 for a period of absence from employment while in military service if:

20 (i) the employment of the member under subsection (a)(2) of this
21 section is active or the employee is reinstated as a regular employee on a leave of
22 absence; and

23 (ii) membership in a State or local retirement or pension system is
24 a requirement of employment.

25 (2) (I) For an absence for military service on or after January 1, 1946,
26 service credit for the military service may not exceed 5 years.

27 (II) 1. THIS SUBPARAGRAPH APPLIES ONLY TO A MEMBER OF A
28 STATE SYSTEM.

29 2. SUBJECT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH AND
30 IN ADDITION TO ANY SERVICE CREDIT RECEIVED UNDER PARAGRAPH (1) OF THIS
31 SUBSECTION, A MEMBER OF THE MARYLAND NATIONAL GUARD WHO HAS BEEN
32 ACTIVATED UNDER TITLE 10 OF THE UNITED STATES CODE, SHALL RECEIVE SERVICE
33 CREDIT AT THE RATE OF 4 MONTHS FOR EACH FULL YEAR FOR MILITARY SERVICE,
34 NOT TO EXCEED A TOTAL OF 36 MONTHS.

35 (e) A member of a State or local retirement or pension system who receives
36 service credit for military service under this section may transfer the credit to another
37 State or local retirement or pension system.

1 38-104.

2 (a) Except as provided in subsection (b) of this section, a member of a State
3 system, who has not met the conditions set forth in § 38-103(a)(2) through (4) of this
4 subtitle, is entitled to receive service credit for military service only on the attainment
5 of 10 years of creditable service.

6 (b) (1) A member of a State system may not receive credit for that military
7 service if the member receives credit for military service from another retirement
8 system for which retirement benefits have been or will be received by the member.

9 (2) Paragraph (1) of this subsection does not apply to:

10 (i) credit for military service provided under:

11 1. the Social Security Act;

12 2. the National Railroad Retirement Act; or

13 3. Title 3 or Title 10, Chapter 1223, §§ 12731 through 12737
14 of the United States Code; or

15 (ii) disability payments from a pension or retirement system.

16 (3) (i) Military service credit under this section may not exceed 5
17 years.

18 (ii) Subject to subparagraph (i) of this paragraph, [for military
19 service with the Maryland National Guard,] a member OF THE MARYLAND
20 NATIONAL GUARD WHO HAS NOT BEEN ACTIVATED UNDER TITLE 10 OF THE UNITED
21 STATES CODE, shall receive service credit at the rate of 4 months for each full year of
22 service with the Maryland National Guard, not to exceed a total of 36 months.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2003.